

PROVIDING PERMANENT CERTIFICATION FOR CERTAIN AIR CARRIERS OPERATING IN HAWAII AND ALASKA

JUNE 26, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PRIEST, from the Committee on Interstate and Foreign Commerce, submitted the following

R E P O R T

[To accompany S. 3163]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3163) to amend section 401 (e) of the Civil Aeronautics Act of 1938 in order to authorize permanent certification for certain air carriers operating in Hawaii and Alaska, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 9, after the word "it", insert the following: "or its predecessor in interest".

PURPOSE OF THE LEGISLATION

The purpose of S. 3163 is to grant permanent certificates to air carriers authorized to furnish service within the Territories of Alaska and Hawaii for any portion of that service performed pursuant to a temporary certificate.

Similar legislation was enacted in the first session of the present Congress granting permanent certificates to local service carriers within the United States.

NEED FOR THE LEGISLATION

Enactment of this legislation will help affected carriers in making long-range plans by eliminating the uncertainty and expense resulting from periodic and costly renewal proceedings, and help management in financing new equipment, an item of increasing and pressing importance.

Nine air carriers are now operating in Alaska, two over local routes exclusively within southeastern Alaska. Seven carriers are operating local service routes in the interior of Alaska, two of which also operate between the United States and Alaska. One of the States-Alaska carriers holds only permanent certificates within Alaska.

The committee was informed one local carrier is in process of selling a route to another local carrier. It is to take care of this situation that the committee has amended S. 3163.

Each of the carriers affected by the legislation operating within Alaska (with the exception of the one carrier whose entire authorization is temporary) holds to varying extent certain permanent authorizations, but each also holds vital temporary certificate authorizations which would be made permanent by S. 3163.

Trans Pacific Airlines, Ltd., is the only temporary certificated carrier providing service within the Territory of Hawaii.

The legislation recognizes the vital importance of air transportation to the development and growth of the 2 Territories, the importance of air transportation to the national defense, plus the fact that the affected routes and carriers are now established as stable and permanent entities in the transportation system of the 2 Territories.

As was the case with legislation granting permanent certificates to local service carriers last session, your committee does not intend that granting permanent "grandfather" rights as provided in S. 3163 will freeze the present route patterns so as to hinder in any way in the future the amendment or modification by the Board of the present route systems, or of the terms conditions and limitations of the certificates issued pursuant to section 401 of the Civil Aeronautics Act.

ADEQUATE CAPITAL IS PROBLEM

Major loans required for airline operations must be sought outside the Territory. Carriers must have recourse to banks and other financial institutions who are not familiar with the vital services they perform, and who can only look to financial statements and the nature of their franchises in determining their stability for the extent and terms of financial assistance which can be provided. It is all important to future financing problems that Congress grant these carriers permanent certificate rights as was done for the trunkline carriers in 1938 and the local service air carriers in 1955.

Because it has been difficult to find adequate capital, as might be expected where the carriers are operating routes under temporary certificates, needed improvements have been deferred. In many cases equipment and maintenance facilities, essential to the continuance of operations and important to the national defense, have been provided only through expensive short-term debt financing.

Examples were cited to your committee in which vitally needed hangar facilities, required by the Civil Aeronautics Administration and urged by the Alaska Air Command, were constructed only through defense loan certification. Cases were cited to your committee of capital requirements anticipated in the immediately foreseeable future for additional equipment and hangar facilities for which long-term and reasonable debt or equity financing will be needed and can only be obtained if the carriers achieve the stability proposed in this legislation. Additional capital will be needed for new aircraft better

adapted and designed to meet the operating and economic characteristics of Alaska routes. Many of the contemplated improvements are essential to cut operating costs and help the carriers in their efforts to become self-sustaining.

Periodic renewal proceedings and the uncertainty of certificate franchises have, as in the case of the local service air carriers, constituted a substantial drain upon the time and energies of both air carrier and Government personnel. Recurring diversion of executive talent to certificate renewal proceedings can be substantially eliminated by the passage of the bill to the end that the full efforts of the carriers and their personnel may be focused and concentrated upon improving operating efficiencies, better procedures, and more efficient service.

AIR TRANSPORTATION VITAL

Air transportation is of the utmost importance both in Hawaii and Alaska. Defense activities in recent years have increased the need for adequate air transportation, especially in Alaska. While the population of the Territory is small, the area is large and the isolated communities are in most instances entirely dependent for their very survival upon the facilities of the carriers affected by this legislation.

Records submitted by the Civil Aeronautics Board and other information presented to your committee show the tremendous advances in the volume of traffic and reduction of subsidy within Alaska. Total subsidy paid to all intra-Alaska carriers is now at a rate substantially less than \$4 million, representing a major reduction over recent years, evidence of the commendable strides which these carriers have taken toward self-sufficiency during the very periods in which they have been increasing and improving their facilities and services.

A substantial portion of the total traffic of intra-Alaska carriers is represented by mail, to a much larger extent than any other class of air carriers, amounting to almost 20 percent of their total revenue ton-miles, contrasted with 2.6 percent for the local service carriers, 4 percent for the domestic trunklines and 8 percent for the international and overseas carriers.

The total subsidy paid to intra-Alaska carriers affected by the bill has been reduced from \$4,463,000 in 1954 to \$3,256,000 for the fiscal year 1956, as estimated by the Civil Aeronautics Board. This continued reduction of subsidy levels, as reflected by recent mail-rate decisions of the Civil Aeronautics Board, would indicate that the actual subsidy for intra-Alaska air carriers for the fiscal year 1956 has already been reduced by more than \$200,000 so that it is quite likely that the affected intra-Alaska carriers will be receiving, by the end of this fiscal year, subsidy payments at a level of less than \$3 million.

Total revenue ton-miles for the intra-Alaska carriers increased from 6 million to 12 million between 1952 and the year ended September 30, 1955. Freight ton-miles increased from 1,610,000 to a most 7 million during the same period. Mail ton-miles increased from 281,000 to 1,266,000 between 1948 and the year ending September 1955.

Permanent certification has benefited the domestic trunklines and the local service carriers. The committee believes that enactment of S. 3163 will have similar beneficial effects upon Territorial carriers with

corresponding benefits to the commerce, the national defense, and the postal service. The benefits will be especially important to the vital defense projects in the Territory and to the many individuals and communities who depend on the affected air carriers for air transportation services for which there is no practical substitute.

The committee desires to make clear, as pointed out by the Civil Aeronautics Board, that any permanent certification issued pursuant to this bill is not subject to Presidential approval under section 801 of the Civil Aeronautics Act. Section 801 does not apply to the issuance or denial of any certificate issuable under section 401 (e).

AGENCY REPORTS

The only opposition expressed to the bill was contained in letters from the Department of Commerce and the Bureau of the Budget which generally opposed on the grounds that the duration of the certificates is an issue to be decided by the Civil Aeronautics Board with the concurrence of the President under existing statutory standards. The Civil Aeronautics Board has, however, endorsed the bill. The Civil Aeronautics Board's position is that the economic conditions and other circumstances applicable to the Territorial carriers are generally the same as those facing the local service airlines. No reason has been presented for according different treatment to the Territorial carriers than Congress accorded to the local service carriers less than a year ago.

The following letters from the Civil Aeronautics Board, the Secretary of Commerce, and the Bureau of the Budget, commenting on H. R. 9252, a companion bill to S. 3163, were considered by the committee:

CIVIL AERONAUTICS BOARD,
Washington, March 28, 1956.

HON. J. PERCY PRIEST,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR CONGRESSMAN PRIEST: This is in further reply to your letters of February 20, 1956, acknowledged February 27, 1956, asking the Board for comments on H. R. 9252 and H. R. 9253.

H. R. 9252 would amend section 401 (e) of the Civil Aeronautics Act in order to authorize permanent certification for certain air carriers operating in Hawaii and Alaska.

H. R. 9253 would amend section 401 (e) of the Civil Aeronautics Act in order to authorize permanent certification for certain air carriers operating between the United States and Alaska.

The reasons which led the Board to issue temporary, rather than permanent certificates, to certain air carriers operating in Hawaii, Alaska, and between the United States and Alaska, are in general of the same nature as those which formed the basis of the Board's policy for temporary certification of the local service carriers operating within the United States. After extensive hearings, and careful consideration, the Congress determined that it would be in the national interest for local service carriers to be given permanent certificates, and to effectuate that policy there was enacted Public Law 38, 84th Congress, approved May 19, 1955. Pursuant to this enactment the

Board has issued permanent certificates to the 14 domestic local service air carriers.

H. R. 9252 and H. R. 9253 would extend to the carriers operating in Hawaii and Alaska, and between the United States and Alaska, provisions for permanent certification somewhat similar to those contained in Public Law 38, pertaining to the domestic local service carriers. The Board feels that economic conditions and other circumstances applicable to the local service carriers are also generally applicable to the carriers who would be benefited by these bills, and therefore that adoption of H. R. 9252 and H. R. 9253 would be in the public interest.

One matter, however, which should be called to the committee's attention is the applicability of section 801 of the Civil Aeronautics Act to this legislation. Section 801 requires Presidential approval in connection with the issuance, denial, transfer, amendment, cancellation, suspension, or revocation of any certificate authorizing an air carrier to engage in overseas or foreign air transportation. Section 801, however, does not apply to the issuance or denial of any certificate issuable under section 401 (e) or any permit issuable under section 402 (c). Likewise, it is assumed that Congress may not intend that permanent certificates awarded under H. R. 9252 and H. R. 9253 be transmitted to the President for approval pursuant to section 801 of the act, since the President will in any event exercise his authority to approve or disapprove this legislation at the time it is submitted to him. In order to make this perfectly clear, it is suggested that H. R. 9252 and H. R. 9253 contain language indicating that permanent certificates issued under these bills are not subject to the provisions of section 801. This of course would not alter or change in any respect the President's power to later pass upon any amendments or alterations that might be made in the certificates of the carriers involved.

Due to time limitations this report has not been cleared with the Bureau of the Budget.

Sincerely yours,

ROSS RIZLEY, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 1, 1956.

Hon. J. PERCY PRIEST,

*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in reply to your letters of February 20, 1956, requesting the views of this office with respect to H. R. 9252, a bill to amend section 401 (e) of the Civil Aeronautics Act of 1938 in order to authorize permanent certification for certain air carriers operating in Hawaii and Alaska, and H. R. 9253, a bill to amend section 401 (e) of the Civil Aeronautics Act of 1938 in order to authorize permanent certification for certain air carriers operating between the United States and Alaska.

The Bureau of the Budget believes that there is no necessity for this legislation since the Congress has already granted full authority to the Civil Aeronautics Board, with the concurrence of the President, to issue permanent certificates to the airlines included in these bills.

In our opinion, the procedures established by existing law are designed to take into account the needs of the commerce, the national defense, and the postal service of the United States, all in the interest of an orderly development of air transportation. Accordingly, we are of the opinion that it would be unwise to grant permanent certificates in a piecemeal manner by separate legislative enactment.

In light of the above considerations, the Bureau of the Budget recommends against the enactment of H. R. 9252, and H. R. 9253.

Sincerely yours,

RALPH W. E. REID,
Assistant Director.

THE SECRETARY OF COMMERCE,
Washington, D. C., March 27, 1956.

Hon. J. PERCY PRIEST,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in reply to your letter of February 20, 1956, requesting our views on H. R. 9252, a bill which would amend the Civil Aeronautics Act of 1938 to authorize permanent certification for certain air carriers operating in Hawaii and Alaska, and H. R. 9253, a bill to amend the Civil Aeronautics Act to authorize permanent certification for certain air carriers operating between the United States and Alaska.

The Department of Commerce does not favor enactment of either of these bills. These bills would have their most important effect upon Trans-Pacific Airlines operating routes within the Territory of Hawaii and routes operated between continental United States and Alaska by Pacific Northern Airlines, Alaska Airlines, and Northwest Airlines. In addition, some airlines operations within the Territory of Alaska would be affected.

The temporary routes of each of the carriers named above were granted in proceedings before the Civil Aeronautics Board, decided less than a year ago. In each case the decision of the Board was submitted to the President, as required by Congress in section 801 of the Civil Aeronautics Act. Each temporary authorization was approved by the President before being issued to the carrier involved. Each carrier was given the opportunity during the proceedings, and did present to the Board, evidence showing the need and other justification for the service which it proposed to operate.

Based upon consideration of the extensive records thereby made, the Board reached its decision to issue the temporary certificates which these carriers now hold. The final orders were approved by the President.

The Board now has under the act, as it had before it decided these cases, full authority to grant certificates of unlimited duration if it is satisfied, on the basis of presentation made to it, that such a course is justified by the needs of the commerce, national defense, and postal service of the United States.

Each carrier could at this time, apply for a permanent certificate under the act. The Board would be obliged, under the act, to issue such an authorization if the standards prescribed by Congress for issuing such a certificate could be shown to be met.

Enactment of the two bills now before your committee would disregard this well considered procedure which Congress provided to assure the orderly development of air transportation.

Because we believe that the carefully drawn standards provided by the Civil Aeronautics Act should be observed, we do not believe it would be desirable that permanent certificates be granted these carriers on a blanket basis by legislative action.

The Civil Aeronautics Board and the President should continue to be permitted to review each carriers' authorization and determine the need for the service and the desirability for extending the duration of the certificate. Any other course would seriously hamper the Board and the President in their function of providing an air transportation system best suited to the needs of this country and its Territories.

In view of the foregoing, we are obliged to recommend against enactment of these bills.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

CHANGES IN THE EXISTING LAW

In compliance with clause 3 of rule XIII of the rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 401 (e) OF THE CIVIL AERONAUTICS ACT OF 1938, AS AMENDED

TITLE IV—AIR CARRIER ECONOMIC REGULATION

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Certificate Required

SEC. 401. (a) * * *

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Existing Air Carriers

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(e) * * *

(3) If any applicant who makes application for a certificate within one hundred and twenty days after the enactment of this paragraph shall show that, from January 1, 1953, to the date of its application, it or its predecessor in interest, was an air carrier furnishing, within the continental limits of the United States, local or feeder service consisting of the carriage of persons, property and mail, under a temporary certificate of public convenience and necessity issued by the Civil Aeronautics Board, continuously operating as such (except as to interruptions of service over which the applicant or its predecessors in interest have no control) the Board, upon proof of such fact only, shall, unless the service rendered by such applicant has been during the period since its last certification inadequate and inefficient, issue a certificate or certificates of unlimited duration, authorizing

such applicant to engage in air transportation between the terminal and intermediate points within the continental limits of the United States between which it, or its predecessor, so continuously operated between the date of enactment of this section and the date of its application: *Provided*, That the Board in issuing the certificate is empowered to limit the duration of the certificate as to not over one-half of the intermediate points named therein, which points it finds have generated insufficient traffic to warrant a finding that the public convenience and necessity requires permanent certification at such time.

(4) *If any applicant who makes application for a certificate within one hundred and twenty days after the date of enactment of this paragraph shall show that on such date it was an air carrier, furnishing service within either the Territory of Hawaii or the Territory of Alaska (including service between Alaska and adjacent Canadian territory) authorized by certificate or certificates of public convenience and necessity issued by the Civil Aeronautics Board to render such service within such Territory, and that any portion of such service between any points or for any class of traffic was performed pursuant to a temporary certificate or certificates of public convenience and necessity issued by the Civil Aeronautics Board, the Board shall, upon proof of such facts alone, issue a certificate or certificates of indefinite duration authorizing such applicant to engage in air transportation within such Territory between the same points and in the same manner and for each such class of traffic as temporarily authorized by such certificate or certificates as of the date of enactment of this paragraph.*

